

John Barhoum, OSB No. 045150

Email: john.barhoum@chockbarhoum.com

Chock Barhoum LLP

121 SW Morrison St., Suite 500

Portland, OR 97204

Telephone: 503.223.3000

Attorneys for Defendant

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PENDLETON DIVISION

SHIRLEY P. TENEYCK,

Case No. _____

Plaintiff,

**DEFENDANT'S NOTICE OF
REMOVAL**

v.

JURY TRIAL DEMANDED

THRIFTY PAYLESS, INC., a California
corporation d/b/a RITE AID PHARMACY,

Defendant.

TO: THE CLERK OF THE ABOVE ENTITLED COURT:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1441, 1446 and 1332(2),

Defendant Thrifty Payless, Inc. ("Defendant") hereby removes this action from the Circuit Court of the State of Oregon for the County of Umatilla to the United States District Court for the District of Oregon, Pendleton Division.

///

RELEVANT FACTS

On June 15, 2020, Defendant received a Summons and Complaint captioned *Shirley P. Teneyck v. Rite Aid Headquarters, Corporation*, Case No. 20CV20115, filed in the Circuit Court for the State of Oregon for the County of Umatilla. *See* Declaration of Jessica Lancaster (“Lancaster Decl.”), ¶ 2. Copies of the Summons, Complaint, and Amended Complaint are attached thereto as Exhibits A, B, and C, respectively. *Id.* These documents, taken together, constitute all process, pleadings, and orders served on Defendant in that action up to the present date. *Id.*

GROUNDS FOR REMOVAL

Pursuant to 28 U.S.C. § 1441(a), a defendant may remove an action filed in the state court to the United States District Court if the district court has diversity jurisdiction under 28 U.S.C. § 1332(a)(1). This action is one over which the district court has diversity jurisdiction under 28 U.S.C. § 1332(a)(1), because the action involves citizens of different states, and the amount in controversy exceeds \$75,000. The particular grounds for removal of this action are as follows:

1. Plaintiff’s claims for relief against Defendant exceed \$75,000. *See* Complaint, ¶¶ 6 and 8, and Amended Complaint, ¶¶ 6 and 8.
2. Plaintiff and Defendant reside in different states. Upon information and belief, Plaintiff resides in Oregon. *See* Complaint, ¶ 1, and Amended Complaint, ¶ 1.
3. Defendant Thrifty Payless, Inc. is a California business corporation registered in the State of Oregon. *See* Defendants’ Corporate Disclosure Statement and Lancaster Decl., ¶ 4.

///

TIMELINESS AND PROCEDURE

Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(c) because it has been less than a year since this action commenced and the amount in controversy exceeds \$75,000. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b)(3) because fewer than 30 days have elapsed since Plaintiff's Complaint was received on June 15, 2020, verifying that the case was removable. *See* Lancaster Decl., ¶ 5.

No further proceedings have occurred in the Circuit Court for the State of Oregon for the County of Umatilla as of the date of this removal as outlined herein. *See* Lancaster Decl., ¶ 2.

Counsel for Defendant will file a copy of this Notice of Removal with the Clerk of the Circuit Court for the State of Oregon for the County of Umatilla and will give notice of same to Plaintiff as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant prays that this action be removed from the Circuit Court for the State of Oregon for the County of Umatilla and placed on the docket of the United States District Court for the District of Oregon, Pendleton Division.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Defendant demands a trial by jury.

Dated this 1st day of July 2020.

CHOCK BARHOUM LLP



John R. Barhoum, OSB No. 045150
Email: john.barhoum@chockbarhoum.com
Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing **DEFENDANT'S NOTICE OF**

REMOVAL was served on:

R.A. "Andy" Millar
R.A. ANDY MILLAR PC
920 S Main Street, PO Box 388
Milton Freewater, OR 97862
Attorneys for Plaintiff

- ☐ By hand delivery
- ☐ By first-class mail*
- ☐ By overnight mail
- ☐ By facsimile transmission:
Fax # | (541) 938-0328
- ☒ By e-mail:
Email | amillar2012@gmail.com

*With first-class postage prepaid and deposited in Portland, Oregon.

DATED this 1st day of July, 2020.

CHOCK BARHOUM LLP



John Barhoum, OSB No. 045150
Email: john.barhoum@chockbarhoum.com
Attorneys for Defendant